

From: Luke deGruchy
To: Microsoft ATR
Date: 1/24/02 11:28am
Subject: Microsoft Settlement

To whom it may concern,

I am writing to express my complete disapproval of and total disillusionment with the Microsoft/United States Department of Justice (DOJ) Settlement. Furthermore, I implore you to recommend that this settlement be soundly overturned.

In my opinion, this settlement does not address the most flagrant aspects of Microsoft's previous anti-competitive behaviour. Furthermore, it does little, if anything, to prevent future antitrust violations.

I cannot determine if the DOJ agreed to this settlement due to collusion with Microsoft or sheer incompetence. However, there are a number of blatant oversights in this settlement. The most glaring of these oversights is the specification of Microsoft's competitors as being exclusively for-profit enterprises. This definition completely ignores Microsoft's single biggest competitor and threat: the OpenSource and Free Software communities. These two communities, respectively, are completely non-profit entities and comprise of volunteer programmers writing code in their spare time. They have produced, among many other excellent free and Open Source software, the Linux and FreeBSD operating systems, which their users are free to distribute, modify and copy to whatever extent they choose, in stark contrast with Microsoft's closed source and expensive operating system: Windows. Microsoft will not be required to adjust its behaviour with respect to these communities in this settlement. Therefore, consumers' greatest hope of seeing competition, and thus lower prices and better software, in the software and operating systems markets is not being helped in any way, shape or form by this settlement.

Microsoft was found guilty of illegally integrating its Internet Explorer browser with its Windows operating system in a vain and ultimately successful attempt to defeat the rival Netscape Communicator browser. This settlement does next to nothing to punish this anti-competitive behaviour, nor does it seek to prevent similar behaviour in the future or to restore competition in the browser market. Consumers will suffer greatly because of this.

Microsoft is guilty of entering into exclusive arrangements with computer original equipment manufacturers (OEM's), the sellers of personal computer (PC) systems, to not only distribute Windows to the exclusion of all other operating systems, but to FORCE computer consumers to buy Windows with each new system. There is no option for consumers to buy a "naked" PC, that is, a PC without an operating system

installed, unless they do business with one of the smaller, independent, less known computer retailers. This agreement has the same effect as a mandatory tax on PC consumers, because if a user wanted to install another operating system, such as Linux, that consumer would have to pay for the Windows license in addition to the cost of the alternative operating system, whether or not that user chose to use it. Furthermore, upon the purchase of the system, the user is not allowed to sell his or her copy of Windows if he or she chooses not to install it. There is very little in this settlement that addresses this inequitable, semi-regulatory system by a non-governmental entity.

Microsoft has illegally leveraged its operating system monopoly to force competitors out of business, many of whom were making better products than Microsoft. For example, when Microsoft introduced its Office productivity suite, it charged a mere \$40 for the entire package, using the profits from its Windows and DOS monopolies to cross-subsidize the scheme, an option not available to its competitors. Its competitors had no other sources of revenue but from their primary products (productivity applications), so Microsoft had an unfair advantage in leveraging its Windows monopoly to put its competitors out of business.

This is exactly the kind of behaviour that antitrust laws are designed to prevent.

Microsoft chairman Bill Gates was found to have perjured himself on the stand, denying the existence of an email that the DOJ had later reproduced in court. Why has he not been personally punished for this crime?

Where are the provisions preventing Microsoft from future behaviours not covered by the settlement, such as Microsoft's exclusion of Java software in its latest operating system, Windows XP? This is despite the fact that a large percentage of web sites run Java applets on their sites. Nothing in this settlement will prevent Microsoft from continuing this practice, which clearly goes against consumers' wishes.

In conclusion, I urge you strongly to push for a complete rejection of this highly flawed and totally ineffective settlement.

Thank you for your attention in this matter.

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